

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 1/26/2024
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TREMAINE E. RICE,	:	
	:	
Plaintiff,	:	1:24-cv-00472-GHW
	:	
-v -	:	<u>ORDER OF SERVICE</u>
	:	
INVERSE MEDICAL, LLC, <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	
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GREGORY H. WOODS, United States District Judge:		

Plaintiff, who is proceeding *pro se*, brings this action under Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. §§ 2000e to 2000e-17; the New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297; the New York City Human Rights Law, N.Y.C. Admin. Code §§ 8-101 to 131; and the New York State Whistleblower Protection Law, N.Y. Lab. Law § 740, alleging that his employer discriminated and retaliated against him based on his race, sexual orientation, and whistleblower activity. By order dated January 23, 2024, the Court granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”), that is, without prepayment of fees.

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.¹ *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the U.S. Marshals Service to serve if the plaintiff is authorized to proceed IFP).

¹ Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served summonses and the complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date summonses are issued.

A. Service on Inverse Medical, LLC and Inverse Medical, Inc.

To allow Plaintiff to effect service on Defendants Inverse Medical, LLC, and Inverse Medical, Inc., for whom Plaintiff provides service addresses, through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for these Defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these Defendants.

If the complaint is not served within 90 days after the date summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

B. Service on Empass Healthcare, Inc.; Johonniuss Chemweno; RTQ, LLC; and VIP StarNetwork, LLC

To allow Plaintiff to effect service on Defendants Empass Healthcare, Inc., Johonniuss Chemweno, RTQ, LLC, and VIP StarNetwork, for whom Plaintiff does not provide addresses,² through the U.S. Marshals Service, the Clerk of Court is instructed to send to Plaintiff one U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for each of these Defendants. Within thirty days of the date of this order, Plaintiff must complete a USM-285 form for each Defendant and return those forms to the Court.

Upon receipt of the completed USM-285 forms, the Clerk of Court shall issue summonses and deliver to the Marshals Service all of the paperwork necessary for the Marshals Service to effect service upon the Defendants.

² *See Gustaff v. MT Ultimate Healthcare*, No. 06-CV-5496, 2007 WL 2028103, at *2 (E.D.N.Y. June 21, 2007) (“The Second Circuit has held that *pro se* litigants proceeding [IFP] are entitled to rely on service by the U.S. Marshals Service. However, plaintiff is required to provide the information necessary for the Marshals to effect service.”), *report and recommendation adopted*, 2007 WL 2028104 (E.D.N.Y. July 11, 2007).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is directed to: (1) issue summonses for Inverse Medical, LLC, and Inverse Medical, Inc., complete the USM-285 forms with the addresses for these two Defendants, and deliver all documents necessary to effect service to the U.S. Marshals Service; and (2) mail to Plaintiff an information package and four USM-285 forms for each Defendant lacking a service address: Empass Healthcare, Inc.; Johonniuss Chemweno; RTQ, LLC; and VIP StarNetwork, LLC.

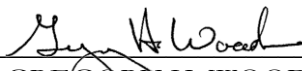
Within thirty days of the date of this order, Plaintiff must complete a USM-285 form for each of these Defendants and return those forms to the Court. Upon receipt of the completed USM-285 forms, the Clerk of Court shall issue summonses and deliver to the Marshals Service all of the paperwork necessary for the Marshals Service to effect service upon the Defendants.

Plaintiff may receive court documents by email by completing the attached form, [Consent to Electronic Service](#).³

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: January 26, 2024
New York, New York



GREGORY H. WOODS
United States District Judge

³ If Plaintiff consents to receive documents by email, Plaintiff will no longer receive court documents by regular mail.

DEFENDANTS AND SERVICE ADDRESSES

1. Inverse Medical, LLC
4904 Alameda Boulevard
Albuquerque, NM 87113
2. Inverse Medical, Inc.
4904 Alameda Boulevard
Albuquerque, NM 87113

CONSENT TO ELECTRONIC SERVICE

I hereby consent to receive electronic service of notices and documents in my case(s) listed below. I affirm that:

1. I have regular access to my e-mail account and to the internet and will check regularly for Notices of Electronic Filing;
2. I have established a PACER account;
3. I understand that electronic service is service under Rule 5 of the Federal Rules of Civil Procedure and Rule 5.2 of the Local Civil Rules, and that I will no longer receive paper copies of case filings, including motions, decisions, orders, and other documents;
4. I will promptly notify the Court if there is any change in my personal data, such as name, address, or e-mail address, or if I wish to cancel this consent to electronic service;
5. I understand that I must regularly review the docket sheet of my case so that I do not miss a filing; and
6. I understand that this consent applies only to the cases listed below and that if I file additional cases in which I would like to receive electronic service of notices of documents, I must file consent forms for those cases.

Civil case(s) filed in the Southern District of New York:

Please list all your pending and terminated cases to which you would like this consent to apply. For each case, include the case name and docket number (for example, John Doe v. New City, 10-CV-01234).

Name (Last, First, MI)

Address

City

State

Zip Code

Telephone Number

E-mail Address

Date

Signature

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